

1979 WL 42915 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 10, 1979

*1 Representative Sterling Anderson
Chairman
House Operations Committee
Sol Blatt Building
Room 404B
Columbia, South Carolina 29201

Dear Representative Anderson:

You have requested an opinion on the following question:

'Does a legislative committee chairman or any agency executive have the authority to pay an employee less than the line item amount appropriated for that position if it is intended to increase the salary to the line item amount at a later date as a merit increase?'

Section 131 of Part I of H2681 (1979-1980 Appropriations Act), which is identical to § 132 of part I of the 1978-1979 Appropriations Act, provides in part as follows:

Provided, Further, That the appropriated salaries for specified positions shall mean the maximum compensation for such position, and in any case where the head of any department can secure the services for a particular position or work at a lower rate than the salary specified in this Act, authority for so doing is hereby given.

In the case of a position which is not classified under the State Personnel Division regulations, it is the opinion of this Office that the above-quoted proviso clearly authorizes a committee chairman or agency executive to pay an employee less than the line item amount appropriated; moreover, the committee chairman or agency executive is not required to increase the salary to the line item amount at any time during the fiscal year, although he may of course do so.

Where the position is a classified position, i.e., its minimum and maximum salary levels have been set by the State Personnel Division, the employee would probably have to be paid at least the minimum amount for that classification; however, this question does not appear to be the one which has arisen at present.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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